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8 IN THE UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA
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11 AIAI QI,

12 Plaintiff,

13 v.

14 ALEJANDRO MAYORKAS, ET AL.,

15 Defendants.
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CASE NO. 2:23-CV-0377-DAD-JDP (PS)

DEFENDANTS' REPLY

Date: June 15, 2023

Time: 10:00 a.m.

Courtroom: 9

On April 5, 2023, Defendants moved to dismiss all claims in Plaintiff's complaint. (ECF 5.) Per E.D. Cal. Local Rule 230(c), Plaintiff's opposition to Defendants' motion was due on or before April 19, 2023. Plaintiff failed to timely file an opposition, however.¹ Defendants accordingly request that the Court construe Plaintiff's failure to oppose Defendants' motion as a non-opposition and grant Defendants' motion to dismiss. *See* E.D. Cal. Local Rule 230(c) ("A failure to file a timely opposition may . . . be construed by the Court as a non-opposition to the motion."); *see also Lombana v. Green Tree Servicing, LLC*, no. CV 14-8330-JCG, 2015 WL 3999366, at *5 (C.D. Cal. June 29, 2015) ("As a rule, a plaintiff's failure to address a defendant's arguments for dismissal constitutes abandonment of [those] claim[s].") (internal quotation omitted).

Defendants respectfully request that the Court grant Defendants' motion to dismiss. Defendants' voluntary actions have rendered Plaintiff's claims moot, and there is no longer any live case or controversy.

Dated: April 24, 2023

PHILLIP A. TALBERT
United States Attorney

/s/ ELLIOT C. WONG
ELLIOT C. WONG
Assistant United States Attorney

¹ Nor has Plaintiff responded to any of the undersigned's communications as of the time of this filing.

CERTIFICATE OF SERVICE BY MAIL

The undersigned hereby certifies that she is an employee in the Office of the United States Attorney for the Eastern District of California and is a person of such age and discretion to be competent to serve papers; that on April 24, 2023, she served a copy of the **(DEFENDANTS' REPLY)** by placing said copy in a postpaid envelope addressed to the person hereinafter named, at the place and address stated below, which is the last known address, and by depositing said envelope and its contents in the United States Mail at Sacramento, California.

Addressee:

**Aiai Qi
7793 Finnhorse Way
Sacramento, CA 95825**

PHILLIP A. TALBERT
United States Attorney

/s/ S. Camacho
S. Camacho